

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
THE ROCKPORT COMPANY, LLC,  
Plaintiff,

v.

\_\_\_\_\_  
E. S. ORIGINALS, INC.,  
Defendant.  
\_\_\_\_\_

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) C.A. No. 04-12714 WGY  
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**AFFIDAVIT OF VICTORIA L. WALTON**

I, Victoria L. Walton, on oath do hereby depose and state as follows:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts, am admitted to practice before this Court and am counsel to The Rockport Company, LLC (“Rockport”) in the above-entitled matter. I make this affidavit on my own personal knowledge.

2. On October 12, 2005, I received a telephone call from Attorney James Foster (“Attorney Foster”) at Wolf, Greenfield & Sacks P.C. Attorney Foster informed me that he was filing a Motion for Summary Judgment (the “Motion”) on behalf of E.S. Originals, Inc. and that he assumed we (on behalf of Rockport) would not agree to dismiss the case.

3. I told Attorney Foster that Rockport would not agree to dismiss the case. At that time, I asked him what were the grounds for his motion because we were obligated to try to narrow the issues pursuant to the Local Rules for the District of Massachusetts (the “Rules”).

4. Attorney Foster informed me that their Motion involved the same grounds as their prior Motion for Summary Judgment but they had updated it with evidence from the depositions.

5. I told him that I thought we needed to discuss it more substantively to fulfill our obligations under the Rules; however, he informed me that he would “risk the wrath of the Court.”

6. I stated that I was simply trying to comply with our obligation under the Rules. The conversation then terminated.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 26TH DAY OF OCTOBER, 2005.

/s/Victoria L. Walton

Victoria L. Walton